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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/782,281  | 02/19/2004  | Takayuki Nishi       | T000-P03020US       | 4248             |
| 33356   | 7590        | 09/27/2006           | EXAMINER            |                  |
| SoCAL IP LAW GROUP LLP<br>310 N. WESTLAKE BLVD. STE 120<br>WESTLAKE VILLAGE, CA 91362 |             |                      | GLEITZ, RYAN M      |                  |
|   |             |                      | ART UNIT            | PAPER NUMBER     |
|   |             |                      | 2852                |                  |

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |  |                     |  |
|------------------------------|------------------------|--|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> |  | <b>Applicant(s)</b> |  |
|                              | 10/782,281             |  | NISHI, TAKAYUKI     |  |
|                              | <b>Examiner</b>        |  | <b>Art Unit</b>     |  |
|                              | Ryan Gleitz            |  | 2852                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) 1-8, 13-17, 19 and 20 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-12 and 18 is/are allowed.
- 6) ☒ Claim(s) 21-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>3/9/06</u> .  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Priority***

This nonprovisional application claims priority to Provisional application No. 60/492,869, which was filed in Japanese on 6 August 2003.

If the prior-filed provisional application was filed in a language other than English, an English-language translation of the prior-filed provisional application and a statement that the translation is accurate, must be filed in the prior-filed provisional application or the later-filed nonprovisional application. In a pending nonprovisional application, failure to timely reply to such a notice will result in abandonment of the application. 37 CFR § 1.78(a)(5)(iv).

The English-language translation and statement are not found in the record of the provisional or nonprovisional applications. Applicant must supply the missing translation and statement in the reply to this Office action prior to the expiration of the time period set in this Office action.

### ***Election/Restrictions***

Applicant is thanked for correcting the typo in the restriction requirement mailed 30 June 2006 (replacement of the restriction requirement mailed 12 April 2006). It is confirmed that "Species G" should have been "Species A" at page 4, line 5.

Applicant disagrees with the characterization of generic claims. An argument is made concerning impermissibly narrowing the scope of the claims. See Response, 12. The argument is unclear. Applicant was telephoned for further explanation but could not be reached.

Claims 1-8, 13-17, 19 and 20 recite "the first value and the second value are variable and set according to a physical characteristic of the media, a physical characteristic of a toner to be

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applied to the media, and an environmental condition.” This limitation is disclose only as part of power control. See p. 21, [0070]. No embodiment disclosed combines the elected species of frequency control with the above limitation. Therefore, claims 1-8, 13-17, 19 and 20 are withdrawn as being directed to a nonelected species.

Applicant is reminded that the recited Markush groups, containing both elected and nonelected species, will be examined only to the extent of the elected species. If the elected species is found to be allowable, the claims must be amended to recite only the elected species rather than elected and nonelected species in the alternative.

### *Specification*

The specification uses the word “may” in 220 occurrences. The specification is objected to because the proliferation of the word “may” renders the disclosure vague and unclear.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). The following terms are not in the specification:

“third value” and “fourth value” (claims 22 and 24); and

“media type datum” (claims 23).

### *Claim Rejections - 35 USC § 112*

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 22 and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

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described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitations “third value” and “fourth value” were not included in the claims as originally filed and are not discussed in the Specification. The terms are considered new matter.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nagihara (US 6,492,630).

Nagihara discloses in figures 9 and 13 a first heating element (2), a second heating element (21), and a controller (9) capable of controlling them. The variable frequency power source (10) allows the controller to controller the frequency of the heating elements (2, 21) among first, second, third, and fourth values, having different magnitudes.

Regarding claims 23-25, temperature sensors (8, 11, 12) allow the control system (9, 10) to control the values according data from the temperature sensors (8, 11, 12). The control system also controls returning to standby. See fig. 20.

***Allowable Subject Matter***

Claims 9-12 and 18 are allowed.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan Gleitz whose telephone number is (571) 272-2134. The examiner can normally be reached on Monday-Friday between 9:00AM and 6:00PM.

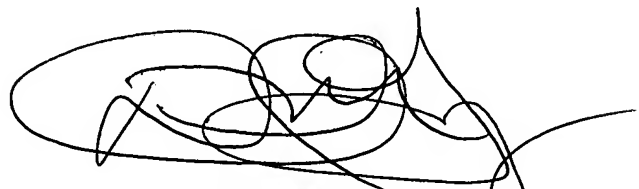
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Gray can be reached on (571) 272-2119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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DAVID M. GRAY  
SUPERVISORY PATENT EXAMINER